

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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JEREMIA GILLO,

Plaintiff,

V.

Case No. 2:22-cv-00857-CDS-NJK

THE HONORABLE PETE BUTTIGIEG,
SECRETARY OF TRANSPORTATION,

Defendant.

ORDER

Before the Court is Defendant's motion for exception from the requirement that a representative with settlement authority attend the early neutral evaluation. (ECF No. 33). Plaintiff opposes. (ECF No. 34). Defendant filed a reply. (ECF No. 36).

In its motion, Defendant explains that, because it is an agency of the Federal government, there is no individual with “on-the-spot settlement authority.” Instead, settlement decisions involve a vetting and approval process that can vary given the merits, risks, and circumstances. Plaintiff opposes, arguing that in-person participation of decision-makers is vital to resolving the dispute. Plaintiff requests the ENE be cancelled if the Court is inclined to grant Defendant’s motion. Defendant replies that it cannot identify a representative with final decision-making authority. Defendant adds that, while it believes an ENE would be helpful even if the parties do not settle, it understands if the Court vacates the session.

Under Local Rule 16-6(c), the evaluating magistrate judge has final authority to exempt any case from an ENE on the judge's own motion. The Court does so here. Having reviewed the parties' positions, the Court concludes that proceeding with the ENE at this early

1 stage of the case would be futile. Plaintiff asserts that an ENE without a final decision-maker
2 would be unsuccessful. And Defendant cannot provide one.

3 Accordingly,

4 IT IS HEREBY ORDERED that Defendant's motion for exception from attendance
5 requirements for early neutral evaluation (ECF No. 33) is DENIED AS MOOT.

6 IT IS FURTHER ORDERED that the ENE scheduled for March 30, 2023 is
7 VACATED.

8 IT IS FURTHER ORDERED that the Clerk of Court kindly remove this case from the
9 Early Neutral Evaluation Program and terminate the undersigned as the settlement judge.

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DATED: March 2, 2023

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DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE

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